



**COMMONWEALTH of VIRGINIA**  
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*Richmond 23219*

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**MEMORANDUM**

**TO:** **VICTORIA P. SIMMONS**  
Regulatory Coordinator  
Department of Medical Assistance Services

**FROM:** **PAIGE S. FITZGERALD**  
Special Counsel to DMAS

**DATE:** **September 15, 2004**

**SUBJECT:** **Proposed Regulations concerning the Addition of Community-Based Residential Services as Covered Medicaid Services**

I have reviewed the attached proposed regulations that set forth an additional level of residential treatment for children and adolescents in accordance with the General Assembly's mandate.

Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Va. Code § 32.1-324, has the authority to promulgate these amendments to the State Plan, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. These regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to add a new level of residential treatment for children and adolescents. The changes were first made by the promulgation of emergency regulations, and were approved by this Office in a memorandum, dated January 9, 2004.

The authority for both the previously promulgated emergency regulations and these proposed regulations is the 2003 Appropriation Act (2003 Acts of Assembly chapter 1042), Item 325(QQQ), which states that DMAS "shall implement coverage for an additional level of Residential Treatment for Children and Adolescents." These regulations will ensure that DMAS complies with this mandate of the General Assembly.

If you have any questions or need any additional information, please feel free to call me at 786-0095.

cc: Kim F. Piner, Esquire